

## **REMARKS**

This amendment is responsive to the Non-Final Office Action mailed on December 5, 2008. Claims 26-28 and 45-51 are pending in the application and stand rejected. Claims 26, 46, and 47 have been amended. In view of the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

### **Rejections under 35 U.S.C. § 112**

The Examiner has rejected claims 48-51 under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement. The Examiner contends that support for these claims could not be found in the specification. Support for the claims may be found at least at paragraphs [0048]-[0049]. Therefore Applicant respectfully requests that the rejections for claims 48-51 be withdrawn.

### **Rejections under 35 U.S.C. § 103**

The Examiner has rejected claims 26-28 and 45-51 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,315,553 to Sachdeva et al. (*Sachdeva*) in view of U.S. Patent No. 5,991,728 to DeBusk et al. (*DeBusk*). Of these claims, claims 26, 46, and 47 are the independent claims.

With respect to claim 26, the Examiner admits on page 3 of the Office Action that *Sachdeva* fails to teach “maintaining a database accessible by computer and containing data related to each of a plurality of practitioners, storing in the database, information identifying the practitioners and information relating to treatment plan options associated with the respective practitioners.” The Examiner contends that *DeBusk* cures this deficiency. Applicant has amended claim 26 to further clarify that treatment plan options include “default preferences as to one or both of orthodontic prescriptions and orthodontic appliance hardware” as now recited in amended independent claim 26.

*DeBusk* is directed toward a system for tracking and profiling supply usage at a procedural level in the health care field. The system in *DeBusk* is configured to create procedural templates including a list of anticipated supplies which are to be used during a given medical procedure. The supplies used may be customized based on the preferences of different

doctors related to a specific medical procedure. For example, in the passage of *DeBusk* cited by the Examiner at col. 15, lines 1-30, *DeBusk* discloses the generation of a bill of materials (BOM) developed at the procedural level which is used to develop a supply list or “bundle” which is applicable to all surgical or medical procedures of a given type. However, individual doctors may require additional and/or specific items that may vary from doctor to doctor. To account for these “special” variations, *DeBusk* discloses “Conditional Bundles,” which are simply groups of supplies that are not included in the standard procedural BOM due to their dependence on conditions such as who is performing the procedure. The conditional bundle information may be stored on a computer with other information about a particular doctor.

Applicant’s amended independent claim 26 now recites in part “storing in the database, information identifying each of the practitioners of the plurality and information relating to treatment plan options including default preferences as to one or both of orthodontic prescriptions and orthodontic appliance hardware associated with each of the respective practitioners.” *DeBusk* fails to disclose treatment plan options for treating a patient. Rather *DeBusk* discloses an inventory management system with different BOM options for different procedures and additional add ons for different doctors. Moreover, *DeBusk* clearly fails to disclose or suggest treatment plan options including orthodontic prescriptions or orthodontic appliance hardware as now recited in amended independent claim 26 as *DeBusk* is focused on hardware kits (bundles) for standard medical procedures and would not be storing prescription information for orthodontics or any other procedure. Nor would *DeBusk* store information related to orthodontic appliance hardware which one of ordinary skill in the art would realize is also prescription based.

Therefore, Applicant submits that *Sachdeva* in view of *DeBusk* fails to teach or suggest “storing in the database, information identifying each of the practitioners of the plurality and information relating to treatment plan options including default preferences as to one or both of orthodontic prescriptions and orthodontic appliance hardware associated with each of the respective practitioners” as recited by amended independent claim 26. Additionally, the Examiner provides no objective reason why one of ordinary skill in the art would be motivated to modify the inventory management and tracking system of *DeBusk* that when combined with *Sachdeva* includes the claimed subject matter of claim 26. Consequently, amended independent

claim 26 is allowable over *Sachdeva* in view of *DeBusk* and Applicant respectfully requests that the rejection for claim 26, and claims 27, 28, and 45 which depend therefrom, be withdrawn.

With respect to independent claim 46, this claim has also been amended to further clarify that treatment plan options include “default preferences as to one or both of orthodontic prescriptions and orthodontic appliance hardware” as now recited in amended independent claim 46. Similarly independent claim 47 has been amended to further clarify that treatment plan options include “default preferences as to one or both of orthodontic prescriptions and orthodontic appliance hardware” as now recited in amended independent claim 47. Therefore, for the same reasons as set forth above with respect to amended independent claim 26, claim 46 and claim 47 are allowable over *Sachdeva* in view of *DeBusk* and Applicant respectfully requests that the rejections for claims 46 and 47 be withdrawn.

Claims 48-51, depend from amended independent claim 47 and are allowable over *Sachdeva* in view of *DeBusk* for at least the same reasons stated above. Furthermore, these dependent claims recite unique combinations of elements not disclosed or suggested by *Sachdeva* in view of *DeBusk*. Consequently Applicant respectfully requests that the rejections for claims 48-51 be withdrawn.

As a final matter, Applicant further notes that the remaining dependent claims recite additional features that further distinguish these claims from the references cited by the Examiner. However, in the interest of prosecutorial economy, these remaining claims will not be addressed separately herein.

### **Conclusion**

Applicant has made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing amendments to the claims and remarks given herein, Applicant respectfully believes this case is in condition for allowance and respectfully requests allowance of the pending claims. If the Examiner believes any detailed language of the claims requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner’s prompt attention to this matter is appreciated.

Applicant is of the opinion that no additional fee is due as a result of this Amendment. Payment of all charges due for this filing is made on the attached Electronic Fee

Sheet. If any additional charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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Date

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